

CS FOR HOUSE BILL NO. 129(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/11/18

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating**
2 **to penalties for certain sport fishing, hunting, and trapping license violations; relating to**
3 **restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating**
4 **violations and amending fines and restitution for certain fish and game offenses;**
5 **creating an exemption from payment of restitution for certain unlawful takings of big**
6 **game animals; relating to commercial fishing violations; allowing lost federal matching**
7 **funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs to be**
8 **included in an order of restitution; adding a definition of 'electronic form'; and**
9 **providing for an effective date."**

10 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

11 *** Section 1.** AS 16.05.330(a) is amended to read:

12 (a) Except as otherwise permitted in this chapter, without having the

appropriate license, [OR] tag, or permit in actual possession, a person may not engage in

(1) sport fishing, including the taking of razor clams;

(2) hunting or [,] trapping [, OR FUR DEALING];

(3) the farming of fish, fur, or game;

(4) taxidermy or fur dealing; or

(5) control of nuisance wild birds and nuisance wild small mammals

for compensation.

* **Sec. 2.** AS 16.05.330(d) is amended to read:

(d) A person may not receive a sport fishing, hunting, or trapping license or other permit or tag issued under AS 16.05.330 - 16.05.430, if the person's right to obtain, or exercise the privileges granted by, a sport fishing, hunting, or trapping license is suspended or revoked in this or another state. A person who applies for a sport fishing, hunting, or trapping license or other permit or tag issued under AS 16.05.330 - 16.05.430 shall sign a statement that the person's right to obtain, or exercise the privileges granted by, a sport fishing, hunting, or trapping license is not suspended or revoked in this or another state.

* **Sec. 3.** AS 16.05.330 is amended by adding new subsections to read:

(f) A person charged with violating (a)(1) or (2) of this section for failure to have a license in actual possession may not be convicted if the person provides evidence satisfactory to the arresting or citing agency, not later than 90 days after the issuance of the citation, of a license previously issued to the person that was valid at the time of the offense.

(g) A license in actual possession may be in paper or electronic form.

(h) A peace officer presented with an electronic device under (g) of this section is immune from liability resulting from damage to the device, except that a peace officer may be liable for civil damages that are the result of the peace officer's intentional misconduct.

* **Sec. 4.** AS 16.05.430(a) is amended to read:

(a) Except as provided in AS 16.05.330(f), 16.05.407(b) [AS 16.05.407(b)] and (d), 16.05.408(b), and 16.05.420(b), a person who violates AS 16.05.330 -

1 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a **class**
 2 **A** misdemeanor [AND UPON CONVICTION IS] punishable by a fine of not more
 3 than **\$5,000** [\$1,000], or by imprisonment for not more than six months, or by both.

4 * **Sec. 5.** AS 16.05.430 is amended by adding new subsections to read:

5 (c) Except as provided in AS 16.05.407(b) and (d), 16.05.408(b), and
 6 16.05.420(b), a person who, without any culpable mental state, violates AS 16.05.330
 7 - 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a
 8 violation punishable as provided in AS 12.55.

9 (d) In addition to any penalty imposed under this section, a person may be
 10 ordered to pay restitution to the state equal to the amount of any lost state or federal
 11 matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux
 12 programs incurred from the person's violation of AS 16.05.330 - 16.05.420 or a
 13 regulation adopted under this chapter, AS 16.20, or AS 16.40.

14 * **Sec. 6.** AS 16.05.722(a) is amended to read:

15 (a) A person who, without any culpable mental state, violates AS 16.05.440 -
 16 16.05.690 [,] or a regulation of the Board of Fisheries or the department governing
 17 commercial fishing [,] is guilty of a violation and upon conviction is punishable by a
 18 fine of not more than

19 (1) **\$6,000** [\$3,000] for a first conviction;

20 (2) **\$12,000** [\$6,000] for a second conviction or for a subsequent
 21 conviction not described in (3) of this subsection; and

22 (3) **\$15,000** [\$9,000] for a third or subsequent conviction within a 10-
 23 year period.

24 * **Sec. 7.** AS 16.05.722 is amended by adding a new subsection to read:

25 (d) The court shall transmit notice of all convictions under this section to the
 26 Alaska Commercial Fisheries Entry Commission.

27 * **Sec. 8.** AS 16.05.782(a) is amended to read:

28 (a) Except as provided in (d) of this section, a person **may not take** [WHO
 29 WITH CRIMINAL NEGLIGENCE TAKES] a brown or grizzly bear within one-half
 30 mile of a solid waste disposal facility [IS GUILTY OF A CLASS A
 31 MISDEMEANOR].

1 * **Sec. 9.** AS 16.05.782(b) is amended to read:

2 (b) In addition to the penalty imposed by law under [(a) OF] this section, the
3 court shall order forfeiture of the hide and skull of the bear; [, BUT] if the hide and
4 skull are not salvaged and delivered to the department, [THEN] the court shall impose
5 an additional fine of up to \$10,000.

6 * **Sec. 10.** AS 16.05.782 is amended by adding new subsections to read:

7 (f) A person who, with criminal negligence, violates (a) of this section is
8 guilty of a class A misdemeanor punishable as provided in AS 12.55.

9 (g) A person who, without any culpable mental state, violates (a) of this
10 section is guilty of a violation punishable as provided in AS 12.55.

11 * **Sec. 11.** AS 16.05.783(c) is amended to read:

12 (c) A person who violates this section is guilty of a **class A** misdemeanor, and
13 [UPON CONVICTION] is punishable by a fine of not more than **\$10,000** [\$5,000], or
14 by imprisonment for not more than one year, or by both. In addition, the court may
15 order the aircraft and equipment used in or in aid of a violation of this section to be
16 forfeited to the state.

17 * **Sec. 12.** AS 16.05.789(b) is amended to read:

18 (b) A person who violates this section is guilty of a class A misdemeanor
19 **punishable as provided in AS 12.55.**

20 * **Sec. 13.** AS 16.05.789 is amended by adding a new subsection to read:

21 (c) A person who, without any culpable mental state, violates this section is
22 guilty of a violation punishable as provided in AS 12.55.

23 * **Sec. 14.** AS 16.05.790 is amended by adding a new subsection to read:

24 (g) A person who, without any culpable mental state, violates this section is
25 guilty of a violation punishable as provided in AS 12.55.

26 * **Sec. 15.** AS 16.05.831(c) is amended to read:

27 (c) A person who violates this section or a regulation adopted under it is **guilty**
28 **of a class A misdemeanor** punishable **as provided in AS 12.55** [BY A FINE OF
29 NOT MORE THAN \$10,000, OR BY IMPRISONMENT FOR NOT MORE THAN
30 SIX MONTHS, OR BY BOTH]. In addition, a person who violates this section is
31 subject to a civil action by the state for the cost of replacing the salmon wasted.

* **Sec. 16.** AS 16.05.901 is amended by adding a new subsection to read:

(c) A person who, without any culpable mental state, violates AS 16.05.871 - 16.05.896 is guilty of a violation punishable as provided in AS 12.55.

* **Sec. 17.** AS 16.05.925 is amended to read:

Sec. 16.05.925. Penalty for violations. (a) Except as provided in AS 16.05.430, 16.05.665, 16.05.722, 16.05.723, 16.05.783, 16.05.831, 16.05.861, [AND] 16.05.905, and (c) of this section, a person who violates AS 16.05.920 or 16.05.921, or a regulation adopted under this chapter or AS 16.20, is guilty of a class A misdemeanor punishable as provided in AS 12.55.

(b) In addition to a penalty imposed under (a) of this section or any other penalty for violation of this title or a regulation adopted under this title, and except as provided in (c) of this section, a person who is convicted of unlawfully taking an animal listed in this subsection, as adjusted for inflation as provided in (d) of this section, may be ordered by the court to pay restitution to the state in the amount set out in this subsection for each animal unlawfully taken:

(1) Bear, black	<u>\$ 900</u> [\$ 600]
(2) Bear, brown or grizzly	<u>2,500</u> [1,300]
(3) Bison	<u>3,000</u> [1,300]
(4) Caribou	<u>1,500</u> [850]
(5) Deer	<u>1,000</u> [400]
(6) Elk	<u>2,000</u> [800]
(7) Goat	<u>2,000</u> [800]
(8) Moose	<u>2,500</u> [1,000]
(9) Musk oxen	<u>4,500</u> [3,000]
(10) Sheep	<u>2,000</u> [1,100]
(11) Wolf	<u>1,000</u> [500]
(12) Wolverine	<u>750</u> [500].

* **Sec. 18.** AS 16.05.925 is amended by adding new subsections to read:

(c) A defendant may not be ordered to pay restitution under (b) of this section if the defendant

(1) as soon as reasonably practicable, voluntarily reports the taking to

1 the department or a state law enforcement officer engaged in fish and wildlife
2 protection; and

3 (2) surrenders to the department all salvaged portions of the animal,
4 including its horns, antlers, hide, and skull, as applicable.

5 (d) Beginning July 1, 2023, and every five years thereafter, the department
6 shall recalculate and update by regulation the restitution amounts provided in (b) of
7 this section to adjust for inflation, based on a formula provided by the Department of
8 Labor and Workforce Development, reflecting the change in the Consumer Price
9 Index for the Anchorage metropolitan area compiled by the Bureau of Labor Statistics,
10 United States Department of Labor, rounded to the nearest \$50 increment.

11 * **Sec. 19.** AS 16.05.940 is amended by adding a new paragraph to read:

12 (39) "electronic form" means the display of images on an electronic
13 device such as a mobile telephone, tablet, or computer.

14 * **Sec. 20.** AS 16.10.030 is amended to read:

15 **Sec. 16.10.030. Penalty for violation of AS 16.10.010 - 16.10.050.** A person
16 who violates AS 16.10.010 - 16.10.050 is guilty of a class A misdemeanor and [,
17 UPON CONVICTION,] is punishable by a fine of not less than \$100 nor more than
18 \$1,000 [\$500].

19 * **Sec. 21.** AS 16.10.030 is amended by adding a new subsection to read:

20 (b) A person who, without any culpable mental state, violates AS 16.10.010 -
21 16.10.050 is guilty of a violation punishable as provided in AS 12.55.

22 * **Sec. 22.** AS 16.10.090 is amended to read:

23 **Sec. 16.10.090. Penalty for violation of AS 16.10.070.** A person who violates
24 AS 16.10.070 is guilty of a class A misdemeanor [AND IS] punishable as provided in
25 AS 12.55 [BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A
26 FINE OF NOT MORE THAN \$5,000 OR BY BOTH].

27 * **Sec. 23.** AS 16.10.090 is amended by adding a new subsection to read:

28 (b) A person who, without any culpable mental state, violates AS 16.10.070 is
29 guilty of a violation punishable as provided in AS 12.55.

30 * **Sec. 24.** AS 16.10.110 is amended to read:

31 **Sec. 16.10.110. Penalty for violation of AS 16.10.100.** A person who violates

AS 16.10.100 is guilty of a **class A** misdemeanor and is punishable by imprisonment for not more than one year or by a fine of not more than **\$10,000** [\$5,000], or by both.

* **Sec. 25.** AS 16.10.110 is amended by adding a new subsection to read:

(b) A person who, without any culpable mental state, violates AS 16.10.100 is guilty of a violation punishable as provided in AS 12.55.

* **Sec. 26.** AS 16.10.130 is amended to read:

Sec. 16.10.130. Penalty for violation of AS 16.10.120 or 16.10.125. A person who violates AS 16.10.120 or 16.10.125 is guilty of a **class A** misdemeanor, and [UPON CONVICTION] is punishable by imprisonment for not more than six months, or by a fine of not more than **\$5,000** [\$1,000], or by both.

* **Sec. 27.** AS 16.10.130 is amended by adding a new subsection to read:

(b) A person who, without any culpable mental state, violates AS 16.10.120 or 16.10.125 is guilty of a violation punishable as provided in AS 12.55.

* **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. This Act applies to offenses committed on or after the effective date of this Act.

* **Sec. 29.** This Act takes effect July 1, 2018.